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March 10, 2008

VIA E-FILING

The Honorable Joseph J. Farnan, Jr.
United States District Court
Federal Building
844 King Street
Wilmington, DE 19801

Re: *ProMOS Technologies, Inc. v. Freescale Semiconductor, Inc.*
C.A. No. 06-788 (JJF)

Dear Judge Farnan:

Pursuant to Local Rule 7.1.2, and in response to ProMOS's March 5, 2008 letter (D.I. 150), we note that every person, of ordinary skill in the art or otherwise, has *some* understanding of what the words "fragile" and "rounding" mean. As confirmed by the Federal Circuit in *Halliburton*, however, the point of the definiteness requirement of the patent laws (35 U.S.C. § 112) is that the patentee must make clear where "to draw the line" on such qualitative terms so that the public can be properly notified of the metes and bounds of the claimed invention for purposes of both invalidity and non-infringement.

In this instance, ProMOS's March 5 letter reaffirms the point of Freescale's February 28, 2008 letter (D.I. 147). Specifically, after asserting that "Figure 5 of the Fortin patent is a representation of what the top edge of the opening looks like after it has been 'round[ed]'" (D.I. 150, p. 1), ProMOS goes on to admit that, "Figure 5 does not purport to distinguish the prior art based on the 'rounding' feature of the claimed invention." (*Id.* at p. 2). In other words, as ProMOS effectively admits, the Fortin patent does not teach people of ordinary skill in the art the extent of "rounding" that is required (1) to distinguish the claimed invention from the prior art or (2) to avoid infringement. Consequently, just as in *Halliburton*, Fortin's claimed "rounding" is fatally indefinite and, therefore, the claims containing this term are invalid.

Respectfully,

/s/ Mary B. Graham

Mary B. Graham (#2256)

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